

Taxation and Revenue Department
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GAMING CONTROL
Section 60-2E-47 through 60-2E-47.1 NMSA 1978

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NEW MEXICO TAXATION AND REVENUE DEPARTMENT

TABLE OF CONTENTS
(This table is not a regulation.)

60-2E-47. GAMING TAX; IMPOSITION; ADMINISTRATION
3.29.14.7 NMAC - Definitions

60-2E-47.1. COUNTY GAMING TAX CREDIT

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60-2E-47. GAMING TAX--IMPOSITION--ADMINISTRATION.--

A. An excise tax is imposed on the privilege of engaging in gaming activities in the state. This tax shall be known as the "gaming tax".

B. The gaming tax is an amount equal to ten percent of the gross receipts of manufacturer licensees from the sale, lease or other transfer of gaming devices in or into the state, except receipts of a manufacturer from the sale, lease or other transfer to a licensed distributor for subsequent sale or lease may be excluded from gross receipts; ten percent of the gross receipts of distributor licensees from the sale, lease or other transfer of gaming devices in or into the state; ten percent of the net take of a gaming operator licensee that is a nonprofit organization; and twenty-six percent of the net take of every other gaming operator licensee. For the purposes of this section, "gross receipts" means the total amount of money or the value of other consideration received from selling, leasing or otherwise transferring gaming devices.

C. The gaming tax imposed on a licensee is in lieu of all state and local gross receipts taxes on that portion of the licensee's gross receipts attributable to gaming activities.

D. The gaming tax is to be paid on or before the fifteenth day of the month following the month in which the taxable event occurs. The gaming tax shall be administered and collected by the taxation and revenue department in cooperation with the board. The provisions of the Tax Administration Act apply to the collection and administration of the tax.

E. In addition to the gaming tax, a gaming operator licensee that is a racetrack shall pay twenty percent of its net take to purses to be distributed in accordance with rules adopted by the state racing commission. An amount not to exceed twenty percent of the interest earned on the balance of any fund consisting of money for purses distributed by racetrack gaming operator licensees pursuant to this subsection may be expended for the costs of administering the distributions. A racetrack gaming operator licensee shall spend no less than one-fourth percent of the net take of its gaming machines to fund or support programs for the treatment and assistance of compulsive gamblers.

F. A nonprofit gaming operator licensee shall distribute at least sixty percent of the balance of its net take, after payment of the gaming tax and any income taxes, for charitable or educational purposes.

(Laws 2005, Chapter 350, Section 2)

3.29.14.7 – DEFINITIONS

"Gross receipts" means the total amount of money or the value of other consideration received less cash discounts allowed and taken, refunds and allowances made to buyers or lessees

and, for a person reporting gaming tax on an accrual basis, amounts written off the books as an uncollectible debt provided that, if any or all of the amounts are subsequently collected, such receipts shall be included in gross receipts in the month of collection. In an exchange in which the money or other consideration received does not represent the value of the property exchanged, “gross receipts” means the reasonable value of the property exchanged.

[3.29.14.7 NMAC - N, 12/29/00]

60-2E-47.1. COUNTY GAMING TAX CREDIT.--

A. Subject to the provisions of Subsection C of this section, beginning January 1, 2011, a taxpayer that is a gaming operator licensee that is a racetrack may claim, and the department may allow, a tax credit in an amount of up to fifty percent of the taxpayer's monthly gaming tax liability pursuant to Section 60-2E-47 NMSA 1978, not to exceed a maximum credit of seven hundred fifty thousand dollars (\$750,000) per state fiscal year, if the taxpayer:

(1) is located in a county in which the board of county commissioners has imposed and the electors have approved a county business retention gross receipts tax; and

(2) had in the immediately prior calendar year a combined net take and receipts, not including receipts for purses, from an allocation agreement made pursuant to Section 60-2E-27 NMSA 1978 of under fifteen million dollars (\$15,000,000).

B. The tax credit that may be claimed pursuant to this section may be referred to as the "county gaming tax credit".

C. If in the prior fiscal year the total amount of county gaming tax credit claimed by the taxpayer exceeded the amount distributed to the state from the proceeds of a county business retention gross receipts tax imposed by the county in which the taxpayer is located, the taxpayer shall be deemed to owe an amount equal to the excess credit and shall remit to the state an amount equal to the excess credit. The taxpayer may not again claim the county gaming tax credit until the excess amount calculated pursuant to this subsection has been remitted to the state.

D. The county gaming tax credit shall be administered by the taxation and revenue department pursuant to the Tax Administration Act.

E. Subject to the provisions of Subsection C of this section, the credit created in this section may be claimed on a monthly basis against the gaming tax remitted to the state on a form provided by the department. The credit claimed each month may not exceed one-twelfth of fifty percent of the gaming tax paid in the prior calendar year. Any additional credit that may be allowed may be claimed in the last month of the fiscal year. The maximum county gaming tax credit claimed shall not exceed fifty percent of the gaming tax due from the taxpayer in the fiscal year.

(Laws 2010, Chapter 31, Section 3)
